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NAUTILUS INSURANCE COMPANY

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

ROBERT "SONNY" WOOD, an individual;
ACCESS MEDICAL, LLC, a Delaware limited
liability company,

Plaintiffs,

v.

NAUTILUS INSURANCE GROUP, a Delaware
limited liability company, et al.,

Defendant.

NAUTILUS INSURANCE COMPANY,

Cross-Claimant,

v.

ROBERT "SONNY" WOOD; ACCESS
MEDICAL, LLC; FLOURNOY
MANAGEMENT, LLC AND ROES 1-10,
inclusive,

Counter-Defendants.

Case No. 2:17-CV-02393-MMD-DJA

**STIPULATION AND ~~PROPOSED~~ ORDER
FOR EXTENSION OF EXPERT WITNESS
DISCOVERY DEADLINE**

Pursuant to ECF No. 240, the Court extended the discovery cutoff date to February 16, 2021. In ECF No. 257, the Court entered an order extending the expert disclosure deadline to January 8, 2021 and the rebuttal expert deadline to February 8, 2021. On January 8, 2021, Robert “Sonny” Wood and Access Medical, LLC (“Plaintiffs”), along with Nautilus Insurance Company (“Nautilus”; collectively, Plaintiffs and Nautilus are the “Parties”) exchanged expert disclosures and expert reports. On February 10, 2021, Nautilus filed an “Emergency Motion to Strike Plaintiffs’ Expert Witness Report; Request for Sanctions” (the “Motion to Strike”). ECF No. 259. On the same day, the Court issued an order stating: (1) that the Motion to Strike would be subject to the normal briefing schedule; and (2) that the deadline for expert witness discovery was continued until six (6) calendar days after the court issued an order on the Motion to Strike. ECF No. 260.

On August 23, 2021, the Court issued an order denying the Motion to Strike (the “Motion to Strike Order”). ECF No. 295. Based on the timeframe set forth in ECF No. 260, the deadline for expert witness discovery is currently Sunday, August 29, 2021. In the time since the Court issued the Motion to Strike Order, the Parties have diligently conferred regarding the scheduling of Nautilus’s deposition of Plaintiffs’ expert witness, Stephen L. Strzelec. However, due to the short timeframe between the issuance of the Motion to Strike Order and the current expert witness discovery deadline, the Parties have been unable to select a mutually agreeable date/time to depose Mr. Strzelec before the expiration of the expert witness discovery deadline.

During the meet and confer process, counsel for Plaintiffs was reluctant to continue discovery again based upon the lengthy history of the case and number of prior extensions. Further, Plaintiffs’ counsel believed the remaining time (6 days) for discovery was insufficient to allow for proper “reasonable” notice under the Federal Rules of Civil Procedure and, therefore, believed that Nautilus was not entitled to depose Mr. Strzelec. Despite these reservations, and in the interest of judicial economy, Plaintiffs have reluctantly agreed to this stipulation. Conversely, Nautilus believed that it was entitled to depose Mr. Strzelec and was prepared to depose Mr. Strzelec or take his deposition non-appearance prior to the expiration of the current expert witness discovery deadline. If Nautilus would have been forced to take Mr. Strzelec’s non-appearance, Nautilus was prepared to move forward with a motion to compel his deposition testimony. In the interest of

1 judicial economy though and to progress this case forward, Nautilus agreed to this stipulation as
2 well.

3 To provide the Parties enough time to conduct the deposition of Mr. Strzelec, Plaintiffs'
4 disclosed expert witness, and to provide the Parties enough time to analyze the testimony, the Parties
5 hereby stipulate to continue the discovery deadline solely to depose Mr. Strzelec to October 4, 2021.
6 No other deadlines will be affected by this continuance.

7 In compliance with Local Rule 26-3:

- 8 • Discovery completed: The Parties have completed all written discovery and
9 Plaintiffs have completed their expert discovery.
- 10 • Discovery that remains to be completed: The deposition of Mr. Strzelec, Plaintiffs'
11 disclosed expert witness.
- 12 • Reasons why deadline was not satisfied: Nautilus was awaiting a ruling from the
13 District Court Judge on the Motion to Strike. To prevent Nautilus from potentially
14 incurring unnecessary deposition costs, Mr. Strzelec's deposition was not taken
15 while the Motion to Strike was pending. After the Court issued the Motion to Strike
16 Order, the Parties communicated in an attempt to schedule Mr. Strzelec's deposition
17 before the current expert witness discovery deadline passed. Due to scheduling
18 conflicts though, the Parties were not able to agree on a mutually convenient date.
- 19 • Proposed schedule: The deposition of Mr. Strzelec, Plaintiffs' disclosed expert
20 witness, will be completed as soon as schedule permits, but by no later than October
21 4, 2021.

The Parties are committed to completing expert witness discovery by the date requested herein.

IT IS SO STIPULATED.

DATED: August 26, 2021

SELMAN BREITMAN LLP

By: /s/ Casey J. Quinn
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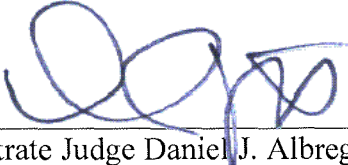
DATED: August 26, 2021

THE SCHNITZER LAW FIRM

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LLC and ROBERT CLARK WOOD, II

IT IS SO ORDERED:

Dated: August 31, 2021


Magistrate Judge Daniel J. Albregts

Bonnie Juarez

From: Jordan Schnitzer <Jordan@TheSchnitzerLawFirm.com>
Sent: Thursday, August 26, 2021 4:18 PM
To: Sam E. Lipsitz
Cc: Linda Wendell Hsu; Bonnie Juarez; Melisa Gabhart
Subject: RE: 2021.08.26 SAO for Extension of Expert Discovery Deadline

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

You may add my e-signature.

Based upon your representation, I will find out when Mr. Strzelec and I both have half a day available, either a morning or afternoon.

Jordan P. Schnitzer, Esq.



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From: Sam E. Lipsitz <slipsitz@selmanlaw.com>
Sent: Thursday, August 26, 2021 4:15 PM
To: Jordan Schnitzer <Jordan@TheSchnitzerLawFirm.com>
Cc: Linda Wendell Hsu <LHsu@selmanlaw.com>; Bonnie Juarez <bjuarez@selmanlaw.com>; Melisa Gabhart <Melisa@TheSchnitzerLawFirm.com>
Subject: RE: 2021.08.26 SAO for Extension of Expert Discovery Deadline

Jordan,

Please see attached with my final proposed redline revisions. If you agree, we'll get it on file.

We anticipate that we'll likely need somewhere between 2-4 hours to conduct Mr. Strzelec's deposition. We'll wait to hear from you regarding potential dates/times.

Sam E. Lipsitz
Associate